

Michael S. Scott, OSB# 973947
McCarthy & Holthus, LLP
920 SW 3rd Avenue, 1st Floor
Portland, OR 97204
Phone (971) 201-3200
Fax (971) 201-3202

Attorneys for Wells Fargo Bank, N.A., its
assignees and/or successors

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re:

Genaro Espitia-Arteaga aka Genaro Espitia,

Debtor.

Case No. 18-30407-tmb13

Chapter 13

**OBJECTION TO CONFIRMATION OF
CHAPTER 13 PLAN**

Wells Fargo Bank, N.A., its assignees and/or successors (“Creditor”), objects to
confirmation of Debtor's Chapter 13 Plan dated February 19, 2018.

BACKGROUND

Creditor holds a first lien Deed of Trust on the real property commonly known as **18845
SW Alexander St, Beaverton, OR 97006-2814 (the “Property”)**.

As of February 5, 2018, the total amount in default was \$137,233.65. This represents the
monthly payments, accrued late charges, advances, foreclosure fees and costs, and attorneys’
fees and costs, as will be further described in the Proof of Claim filed by Creditor.

REASONS FOR OBJECTION

☒ The Plan provides for payment of arrears in the amount of \$97,060. However, the arrears are
\$137,233.65 as will be set forth in the Proof of Claim. The Plan does not provide for full cure of
the arrears.

- ☒ Debtors have failed to make post petition payments to Creditor.
- ☒ Debtor's plan proposes to refinance or sell the property during the term of the Plan. This provision violates 11 U.S.C. §1325(a)(5)(B)(iii) by failing to provide for equal payments to cure the arrears. The Plan does not provide sufficient detail on how or when that transaction will occur, or how Debtor will qualify for the new loan. It appears that the Plan is not feasible unless the Debtor sells or refinances the property, and the Plan should provide for surrender or other cure alternative in the event the property is not sold or refinanced as proposed. Therefore, the Plan is too vague to be enforceable or confirmable.

CONCLUSION

Any Chapter 13 Plan proposed by the Debtors must provide for and eliminate the Objections specified above in order to be reasonable and to comply with applicable provisions of the Bankruptcy Code. Creditor respectfully requests that confirmation of the Chapter 13 Plan as proposed by the Debtors be denied, or in the alternative, be amended to provide for full payoff of the arrearages owed to Creditor.

WHEREFORE, Creditor prays as follows:

1. That confirmation of the Proposed Chapter 13 Plan be denied, or in the alternative, be amended to provide for full payoff of the arrearages owed to Creditor;
2. For attorneys' fees and costs herein,
3. For such other relief as this Court deems proper.

Dated: March 20, 2018

Respectfully submitted,

McCarthy & Holthus, LLP

By: /s/ Michael S. Scott

Michael S. Scott, OSB# 973947

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Attorney for: Wells Fargo Bank, N.A., its assignees
and/or successors

CERTIFICATE OF SERVICE

On 3/20/2018, I served the foregoing **OBJECTION TO CONFIRMATION OF PLAN** on the following individuals by electronic means through the Court's ECF program

TRUSTEE

Wayne Godare
c0urtmai1@portland13.com

DEBTOR'S COUNSEL

Vanesa Pancic
vanesapancicmeier@comcast.net

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Salvador Arroyo

Salvador Arroyo

On 3/20/2018, I served the foregoing **OBJECTION TO CONFIRMATION OF PLAN** on the following individuals by depositing true copies thereof in the United States mail at San Diego, California, enclosed in a sealed envelope, with postage paid, addressed as follows:

DEBTOR

Genaro Espitia-Arteaga, 9595 SW Prairie Terrace, Beaverton, OR 97008

US TRUSTEE

620 SW Main St, Rm 213, Portland, OR 97205

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: 3/20/2018

/s/ Hue Banh

Hue Banh